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<b>KENNETH D. COOPRIDER, Appellant</b>	)	
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<b>and</b>	)	<b>Docket No. 03-1630</b>
	)	<b>Issued: April 7, 2005</b>
<b>U.S. POSTAL SERVICE, POST OFFICE,</b>	)	
<b>Homosassa Springs, FL, Employer</b>	)	
	)	

*Case Submitted on the Record*

Before:  
WILLIE T.C. THOMAS, Alternate Member  
MICHAEL E. GROOM, Alternate Member  
A. PETER KANJORSKI, Alternate Member

On June 16, 2003 appellant filed a timely appeal from merit decisions of the Office of Workers' Compensation Programs: March 6, 2003, finding that he had not established an entitlement to a schedule award; and March 31, 2003, denying his request for reconsideration. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merit and nonmerit issues in this case.

The issues are: (1) whether appellant is entitled to a schedule award for his bilateral carpal tunnel syndrome; and (2) whether the Office properly denied appellant's request for reconsideration.

The Office accepted appellant's January 18, 2000 claim for bilateral carpal tunnel syndrome and authorized carpal tunnel release and tenosynovectomy of the flexor tendons. Dr. Owen B.K. Osborne, an attending plastic surgeon and hand specialist, performed a right

medial nerve release at the carpal tunnel and a tenosynovectomy on July 24, 2000. He released appellant to return to light duty effective August 22, 2000.

In a February 14, 2001 report, Dr. Osborne stated that appellant was right-hand dominant and had a mildly positive Phalen's sign, a negative reverse Phalen's sign and a negative Tinel's sign. Grip strength was 62 pounds per square inch on the right and 82 pounds on the left. Appellant's range of motion was good in the wrist and digits, and opposition was good. The neurological examination revealed thumb and index finger at five millimeters, middle finger at seven millimeters, ring finger at six millimeters, and little finger at five millimeters radially and seven millimeters ulnarly. Dr. Osborne stated that appellant had reached maximum medical improvement and that an impairment rating would be calculated. He noted permanent restrictions of pushing or pulling no more than 50 pounds, no repetitive motions, and no lifting over 25 pounds. Appellant was released from care. On March 31, 2001 Dr. Osborne advised the employing establishment that appellant had permanent restrictions, including no pushing or pulling over 50 pounds, no repetitive motion and no lifting over 25 pounds. He stated that appellant would not be able to sort mail on a continuing basis because of the repetitive nature of the work.

On November 28, 2001 Dr. Osborne noted appellant's bilateral wrist pain, more on the left. Appellant related that he was forced to do repetitive motions at work which caused pain which increased during the day. In a separate report of the same day, Dr. Osborne rated appellant with a three percent permanent impairment to the body as a whole. In a report dated April 10, 2002, Dr. Osborne stated that appellant was symptomatic in both forearms and wrists. He also indicated that appellant was deferring surgery on the left hand. Dr. Osborne noted negative Phalen's sign bilaterally, and a negative Tinel's sign on the right but a positive Tinel's sign on the left. Two-point discrimination tests bilaterally were normal.<sup>1</sup>

In an October 9, 2002 report, Dr. Osborne stated that appellant was symptomatic with pain "all the time." He noted a positive Phalen's sign, a negative reverse Phalen's sign and a negative Tinel's sign of the right wrist. Grip strength was 84 pounds on both left and right. Appellant had good range of motion in the wrist and digits, and opposition was good. The neurological examination revealed a two-point discrimination of five millimeters for all digits. In a separate report, Dr. Osborne noted appellant's diagnosis of right median nerve repair at carpal tunnel with tenosynovitis of flexor tendons. He rated appellant with three percent permanent impairment of the whole body.

On October 16, 2002 appellant filed a claim for a schedule award. On February 6, 2003 the Office requested that the Office medical adviser review the medical record for right wrist impairment. In a report dated February 10, 2003, the Office medical adviser reviewed the reports of Dr. Osborne and noted normal right upper extremity findings, good range of motion of the wrists and digits with good opposition. He noted appellant's grip strength at 84 pounds in both wrists, and two-point discrimination of 5 millimeters in all digits. The vascular examination was normal. The Office medical adviser stated that there was no evidence of permanent impairment.

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<sup>1</sup> Appellant submitted additional reports from Dr. Osborne from September 2000 to January 2002, all of which noted right wrist pain.

In a decision dated March 6, 2003, the Office denied appellant's claim for a schedule award, finding that he did not have a permanent impairment as a result of his accepted injury.

By letter dated March 18, 2003, appellant requested reconsideration. He noted that a coworker had received a schedule award for carpal tunnel syndrome but did not submit any additional medical evidence. In a decision dated March 31, 2003, the Office denied a merit review on the grounds that appellant did not present new evidence in support of his claim.

### **LEGAL PRECEDENT -- ISSUE 1**

The schedule award provision of the Federal Employees' Compensation Act<sup>2</sup> and its implementing regulation<sup>3</sup> sets forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss, or loss of use, of scheduled members or functions of the body. However, the Act does not specify the manner in which the percentage of loss shall be determined. For consistent results and to ensure equal justice under the law to all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. The American Medical Association, *Guides to the Evaluation of Permanent Impairment* (5<sup>th</sup> ed. 2001) has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.<sup>4</sup>

### **ANALYSIS -- ISSUE 1**

Dr. Osborne, a treating physician, noted findings on examination of positive Phalen's sign in the right wrist. The October 9, 2002 report also noted appellant's complaints of continuous pain. Further, in reports dated November 28, 2001 and April 10, 2002, Dr. Osborne noted pain in right wrist.<sup>5</sup> The Office medical adviser reviewed Dr. Osborne's October 9, 2002 report and determined that appellant had no impairment. However, the Office medical adviser did not reference the positive findings in the reports or make reference to the A.M.A., *Guides* in supporting his finding of no impairment. Also, he made no reference to appellant's complaints of pain. The A.M.A., *Guides* states that, after an optimal recovery time following surgical decompression of carpal tunnel syndrome, three scenarios are possible: if there are positive clinical findings of median nerve dysfunction, impairment is rated according to sensory or motor deficits; if normal sensibility and opposition strength combines with abnormal sensory and/or motor latencies or abnormal electromyogram testing, an impairment rating not to exceed five percent may be justified; finally, if there are normal sensibility findings, opposition strength and nerve conduction studies, there is no objective basis for an impairment rating.<sup>6</sup> The medical evidence in this case includes several postsurgical findings of symptoms of right carpal tunnel

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<sup>2</sup> 5 U.S.C. § 8107.

<sup>3</sup> 20 C.F.R. § 10.404.

<sup>4</sup> *Willie C. Howard*, 55 ECAB \_\_\_\_ (Docket No. 04-342 & 04-464, issued May 27, 2004).

<sup>5</sup> The Board notes that the Office did not request Dr. Osborne to provide an impairment rating using the A.M.A., *Guides* as required by the FECA Manual. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Disability Claims*, Chapter 2.808.6a (March 1995).

<sup>6</sup> A.M.A., *Guides* 495.

syndrome, specifically in Dr. Osborne's October 9, 2002 clinical finding which is 15 months postsurgical release.<sup>7</sup>

Accordingly, the Board will set aside the March 6 and 31, 2003 decisions and remand this case to the Office. The Office should prepare a statement of accepted facts and refer appellant and the medical records to Dr. Osborne for an opinion on the extent of any permanent impairment, consistent with the A.M.A., *Guides*. Following such further development of the evidence as may be necessary, the Office shall issue a *de novo* decision in this case.<sup>8</sup>

### **CONCLUSION**

The Board finds that the case is not in posture for decision.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the March 31 and 6, 2003 decisions of the Office of Workers' Compensation Programs is set aside and the case is remanded for further action consistent with this decision.

Issued: April 7, 2005  
Washington, DC

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>7</sup> Federal (FECA) Procedure Manual, Part 3 -- Medical, *Requirements for Medical Reports*, Chapter 3.600.8c (September 1994).

<sup>8</sup> In view of the Board's disposition of the merits, the issue of whether the Office in its March 31, 2003 decision properly denied appellant's request for reconsideration is moot.